

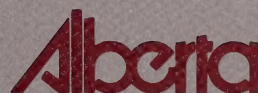
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JUL 30 1990

# A Risk Management System for Alberta

Uniform General Safety Act

Discussion Paper #2



LABOUR  
General Safety Service Division





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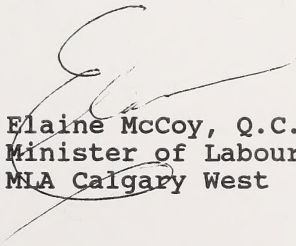
## MESSAGE FROM THE MINISTER

Albertans expect their homes, offices, schools and other buildings to be safe; they expect quick and effective responses to emergencies. Meeting these expectations requires the hard work and co-operation of many parties. It also requires a comprehensive set of codes and standards that clearly set out the role and responsibility of each party in the safety system.

As you know, we are now revising Alberta Labour's safety laws in an effort to provide that clear and complete set of codes and standards. Last year we sent you a discussion paper outlining our plans. I am delighted to report that your response to that paper has been tremendous and a major help to us in designing a better safety partnership. Thank you. Now I am pleased to respond to you.

Most of you have offered firm support for our plan to combine Alberta Labour's many safety Acts into a single statute based on the concept of risk management. However, many of you have raised questions and suggested improvements, which have resulted in our making a number of important changes and clarifications to the draft statute. The revised draft isn't ready for presentation yet. However, this document does attempt to answer your questions about how the proposed new safety system will work -- in practical terms -- for all parties involved.

It takes a long time to develop and implement a new safety system that reflects the input and support of all parties. But we are making progress. Indeed, I expect to have a revised statute and package of regulations ready for public review and discussion by this fall. But first I need your response to the proposals and explanations contained in this document. To date, your input has provided us with invaluable insights and information. I encourage you to keep up your high level of interest and to get back to us with comments about this paper by the end of the summer. Your participation does make a difference. After all, our goal is to provide a system that works for you and for all of the many partners in risk management. Together we are effective.



Elaine McCoy, Q.C.  
Minister of Labour  
MIA Calgary West



## IMPORTANT NOTICE

### CALL FOR WRITTEN SUBMISSIONS

If you wish to make a written submission about the contents of this discussion paper please forward your comments to the address given below before August 31, 1990.

Alberta Labour  
Office of the Assistant Deputy Minister  
General Safety Services  
#1001, 10808 - 99 Avenue  
Edmonton, Alberta  
T5K 0G5

If you wish further information please call your local **RITE** operator (toll free line) and ask for 427-3679.







## **DISCUSSION PAPER #2**

### **UNIFORM GENERAL SAFETY ACT**

#### **"A RISK MANAGEMENT SYSTEM FOR ALBERTA"**

**MAY 1990**



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## INTRODUCTION

For all Albertans, risk is a shared problem, risk mitigation a shared obligation and safety a shared goal. This paper makes a proposal for achieving an acceptable level of safety through an efficiently managed system in which everyone can play a role. The proposal is to build a risk management system for Alberta involving new concepts in legislation, regulations and administration. The paper describes how the General Safety Services Division of Alberta Labour, and its partners in other levels of government and the private sector will function in the years to come under a new Uniform General Safety Act. The system described below will not come into being the day the new Act is proclaimed. It is anticipated that the complete transition from the current system to the one presented here will take several years. Management and information systems will evolve, training will take place and, as partners become comfortable with new roles and are able to take them on, the pieces will be put into place.

The statute and regulations will be designed to suit the future but they will accommodate the present situation and the transition process. The issues discussed here focus on how the system will operate when fully implemented. The approach is descriptive, but the intent is provocative. Those who review this paper are invited to picture how they will fit into the system and to comment on their concerns.

This paper attempts to discuss the challenges facing safety services by proposing a set of solutions for organization and delivery of services. Solutions developed through the consultation process will be acted upon. The consultation process following from this document will result either in validation of the concepts presented, or in their refinement and improvement. To this end the concepts are presented as general principles or descriptions of processes broadly applicable to safety issues. Of course it will be necessary to tailor the principles and processes to specific situations that arise from the differences between locations and the different technical disciplines. These details will be the focus of

a third discussion paper on statute and regulations that will be released in Autumn 1990.

## **A RISK MANAGEMENT APPROACH TO PUBLIC SAFETY**

### **1. Principles of Risk Management**

The central principle behind the Uniform General Safety Act is familiar to everyone. Each of us owes a duty of care to those around us to see that our activities do no harm to others. Applying this principle to the situations encompassed in this Act, anyone who has care and control of something that might create a risk is responsible to see that things are designed, built, maintained, operated, or demolished in a safe manner. This is true for all stages in the life of a building or piece of machinery. The designer, manufacturer, seller, contractor, installer, operator or demolition contractor all bear, at some time, responsibility for the safety of the things under their care and control.

The role of governments in safety is to make sure people mitigate risks that might arise from the activities of those who have care and control of buildings, industrial installations and processes. Since nothing is ever completely safe and since no-one's resources are infinite, the central question for governments is how best to use available resources so as to achieve a generally acceptable level of safety? The philosophy behind this approach to safety is "risk management", a term that is familiar to investors and to the insurance industry. The logic is the same when it is applied to the safety business: risks must be identified and then analyzed so the causes are understood; then they must be assessed to see how serious they are; and when that is done, decisions must be made as to whether something should be done about a particular risk; and if so, what and by whom.

At its simplest, this system means that resources should be applied to risks so that potentially serious things will be dealt with, but as risks become less serious or likely, they deserve less resources, down to a point where diminishing returns make it unreasonable to do more. Two elements of risk must be balanced in this process, the potential consequences of the risk and the likelihood it will occur. For example, a gas plant in an



urban area is unlikely to suffer a catastrophic failure, based on knowledge of thousands of operating-years of experience. However, because the consequences of such a failure would be so serious, the assignment of a significant level of resources to the gas plant's safety is justified. A different balance would exist where the potential consequences from a risk were not too dangerous and did not affect many people: for example, the plumbing in a house compared to the piping in a gas plant.

## **2. Information Exchange**

Risk management obviously depends on informed decision making. The information on which to base reasonable decisions then becomes an important part of an overall safety system. There are things partners in the safety system need and want to know so that they can discharge their legal and moral obligations, and these are the same things that governments need to know so that risks can be assessed and managed. From this point of view, safety legislation is a vehicle for the transmission of information between the parties who need to know.

In most situations it would be impossible and unreasonable to expect a private individual, company or municipality to be aware of every single factor that might influence their judgement on how to conduct their business safely. The "information revolution" now provides more in the way of published reports on the experiences of others and on emerging technology and techniques than any one individual can easily keep up with. The growing use of computers and data bases makes even more information available to those with the facilities to retrieve it.

In these circumstances of information overload it is appropriate for the Government of Alberta to serve as a "clearing house" for information. One of its prime roles in a provincial risk management system will be to maintain a system to collect, assess and disseminate information on which risk management decisions can be made.

An information exchange will be set up. Individual "micro data" on activities and

incidents from the partners will flow to the government and "macro data", a summation of the experiences of others, will be returned. Collection of individual data from many sources will allow the government to maintain a broad perspective on the emergence and mitigation of risk. Sharing the results of this process with individuals, municipalities and companies will allow them to make decisions on a base of experience much broader than their own experience.

The reporting burdens imposed by governments will remain a concern for those who have to do the paper work. However, Alberta Labour intends to use computing potential as much as possible and in ways that will reduce the work required to produce both micro and macro data. To the extent possible, the government's information requirements will become "invisible" by-products of routine management systems. In the case of municipalities with existing computing capabilities for permits and other documentation, few if any changes should be needed to meet information system requirements. In the case of municipalities that do not yet have computerized systems, it is likely that the government can provide required software at no cost to the municipality.

As an example of what is intended, a municipality could supply Alberta Labour with information on building permits, gas and electrical installations and reports of fires and other untoward occurrences. In return the province could supply an assessment of risks associated with the activities undertaken by the municipality. For instance, Alberta Labour would return to the municipality any information about types of electrical appliances, new construction techniques, or other matters where there was evidence of a concern. If the municipality is computerized this may involve nothing more than a monthly or quarterly exchange of computer diskettes.

This information system will grow over the years as more data is collected and as more parties become involved. Design of the system is well under way. It will incorporate existing systems concerning fire and pressure vessels and will be expanded into other disciplines as quickly as budgets, and the capacity of others, allow. By the end of the second year after the proclamation of the new Act, it is expected the system will be nearing

its operating potential.

### **3. Liability**

One of the greatest areas of concern for governments at all levels, and for many individual government employees, is the emerging potential for Crown liability. The possibility that one might get sued (tortious liability) has long been a fact of life for individuals, professionals and companies in the private sector. However, the possibility of being sued is a relatively new situation for the public sector and its employees. Case law on liability is like a living being that develops and changes. Although the case law creates uncertainty, every effort will be made so that liability can be managed. The new legislation will take into account not only the present situation but be flexible enough to handle future developments in regard to risk management.

Two things appear to be happening which worry all governments: one is that the courts are finding governments liable for an increasingly broad range of activities or inactivities, and the second is that the courts are awarding higher and higher settlements. Moreover, it has become increasingly expensive, and sometimes even impossible, to insure against potential liability -- a factor which has had a significant impact on municipalities and on professional groups.

These factors have worked together to produce a climate of uncertainty, particularly in the area of general safety services. Because of recent court decisions it is hard to know one's liability position under existing statutes, or predict what it might be in the future. One of these recent decisions summarizes the history of Crown liability and its continuing difficulties:

The functions of government and government agencies have multiplied enormously in this century. Often government agencies were and continue to be the best suited entities and indeed the only organizations which could protect the public in the diverse and difficult situations arising in so many fields. They may encompass such matters as the manufacture and distribution of food and drug products, energy production, environmental protection, transportation and tourism, fire prevention and building developments. The increasing complexities of life involve agencies of government in almost every aspect of daily living. Over the



passage of time the increased government activities gave rise to incidents that would have led to tortious liability if they had occurred between private citizens. The early governmental immunity from tortious liability became intolerable. This led to the enactment of legislation which in general imposed liability on the Crown for its acts as though it were a person. However, the Crown is not a person and must be free to govern and make true policy decisions without becoming subject to tort liability as a result of those decisions. On the other hand, complete Crown immunity should not be restored by having every government decision designated as one of policy. Thus the dilemma giving rise to the continuing judicial struggle to differentiate between policy and operation. Particularly difficult decisions will arise in situations where governmental inspections may be expected. (Just v. B. C. (1989), 64 D.L.R. (4th) 689 (S.C.C.) per Cory J. at 704)

The question arises: how should decisions be made in this new, and seemingly very changeable, legal environment?

It seems prudent to assume that all risk management and safety related decisions, whether made by governments, private companies or individuals, might be subject to review by the courts. Taking this as a starting point (that, probably, one is not exempted from liability, or at least court scrutiny) it is reasonable to build on the strongest traditional defence against liability; namely, that the action taken, or not taken, was a reasonable one. If the reasonable decision is based on the best available information, as should be the case with an operational risk management system, this affords as much protection from liability as is likely to be available.

The new statute will provide a different base against which the courts might assess liability. It is possible that case law on liability will evolve differently for a statute based on risk management principles. Currently the liability considerations are based on historical circumstances that may no longer be appropriate for today's technical capabilities. For example, a traditional defence was that an event was not "reasonably foreseeable". With today's statistical and information processing capabilities, it is difficult to argue that an event could not have been foreseen. In the same vein, historically the only way to make a judgement about the safety of something was to inspect it. Hence, much of the case law on Crown liability has evolved around the question of whether or not something should have been inspected. Today inspections are only one of many tools that can be brought to

bear to mitigate risk. Quality management programs, for example, can significantly increase the standards compliance of manufacturing processes in a way that inspection by itself was never able to do. The technique is also of advantage to those who use it. It is quicker and cheaper to do things right the first time than to fix them later. Many of these newer techniques have never been the subject of court cases. So, at this time there can be no assurances as to how far the courts will go in embracing risk management techniques as a superior alternative to the more traditional tests. Nevertheless, these newer techniques of mitigating risk work better than did the older methods. As a matter of public policy it would be appropriate for the courts to favour the use of the best available techniques, along with the best available data, to reduce risk as much as possible with the resources available. If this proves to be the case, any partner who fully embraces a risk management approach to its responsibilities should be in a better liability position than under the old system.

In the statute, the section on liability will be redrafted to protect decision makers from all but negligent liability, so far as that is possible within the framework of recent court decisions. In a case where services might be contracted between a level of government and a corporation or professional, it should be possible and desirable to incorporate "save harmless" clauses, as has been the custom for many years.

\*

The concepts presented in this section are all closely linked and, together, they form the basis of the proposed system of risk management that will be put in place in the 1990s. Those who own, or have care and control of, something that is a potential source of danger are responsible for it. Governments are responsible to make sure that risks are managed with available resources and the tools. A risk management information system that allows for collection and dissemination of information about what is safe and what is not, what works and what does not, is a valuable service that a centralized agency like the provincial government can provide for others who must manage risks at a more immediate level. This kind of information system will depend on the transfer of data about risk from individual sources to the government, and then the return of compiled and summarized data relevant

to risk issues back to the individual sources. Liability is the mirror image of responsibility and risk management provides the best available tool to discharge responsibilities with the least risk (and therefore the least potential liability) possible.

Accidents will still happen. No system can prevent that. The system described in the following pages, and the steps necessary to put it in place, is intended to be a reasonable approach to a shared problem; one that is much better addressed through the co-operation of all concerned than by any alone.



## **PROVINCIAL GOVERNMENT SERVICES**

Within the risk management framework the government has several roles: to set safety standards, to certify competence, and to delegate authority. Subsequent chapters will address how these roles will be managed while this chapter focuses on the changes that will take place in the mandate and day-to-day operations of Alberta Labour.

The risk management system will grow over the next few years. As it does the role of the provincial government will change. The major changes will be a shift in the focus of administration and a change in the nature of the work done by Alberta Labour staff. The government will be more active in developing codes and standards and monitoring their performance but less active in obtaining field level compliance with those codes and standards. The government will put a greater portion of its resources into upgrading and expanding technical expertise within its own staff. This expertise will be made available to all partners in the risk management system. These changes will come on gradually, but should be apparent within two years of the proclamation of the new Statute.

### **1. The Focus of Responsibility and Authority**

The focus of administration will shift gradually from the provincial government to local governments and to private sector concerns. In the case of large municipalities already involved in many of the safety areas, the changes are likely to be few. In the case of mid-sized and smaller municipalities there will be a gradual delegation to the local level where this is feasible. These municipalities will either be more involved themselves or will contract with companies to provide the services specified under the new Act. Municipalities will set and collect fees and oversee the provision of services. How this is done will be determined by the municipalities. Larger commercial enterprises and those with a high level of technical expertise will have the option of participating in many aspects of the risk management system, provided that they are willing and able to meet stringent government controls.

These changes in administrative strategy will allow the provincial government to concentrate on what it can do best and on those aspects of risk management that can only be reasonably carried out by a centralized agency. On the other hand, it will gradually transfer those functions which cannot be efficiently or appropriately carried out by a centralized agency closer to the sites where work must be carried out.

The principle behind these changes recognizes that there are a large number of decision makers involved in obtaining an acceptable level of safety. The responsibility for the safety of any given process or thing rests with those who have care and control of it. To enhance safety, responsibility and authority must be brought together. Decisions made at a distance, whether that distance is in miles or in layers of bureaucracy, may be difficult to reconcile with optimum performance for a safety system. The role of the provincial government and its partners will evolve to reflect this principle.

## **2. Different Technical Disciplines**

Service delivery for each technical discipline will not necessarily be identical under the Uniform General Safety Act. The differences between the technical disciplines are significant and these differences require different focuses for administration and decision making. For example, there are a large number of electricians and electrical contractors in Alberta. Individuals with technical expertise in electrical work are present in almost all areas of the province. The case is the same for plumbing and gas. However, the required level of expertise for large and complex industrial applications may not be available in the regions where industrial developments are taking place. Equally, expertise in building standards may be locally available for residential and light commercial buildings but may not be locally available for more complex projects such as hospitals. At the other extreme, expertise in elevating devices and pressure equipment is held by relatively few individuals and is not evenly distributed throughout the province.

The delegation of authorities will be limited by the availability of the expertise. Competency is the overriding criterion. Authorities will not be transferred except to

organizations with the demonstrated competence to take them on. In practical terms, Alberta Labour will retain a high profile for most types of pressure equipment and elevating devices. It will be significantly less active in plumbing, gas and electrical work, particularly in municipalities which do not now involve themselves in these services, but where local expertise is available and conditions permit local delivery of services.

### **3. Inspections**

There will be a fundamental change in government inspections. After a few years the provincial government will not be involved in routine inspections. These will be gradually reduced as alternatives are adopted and authorities are delegated. Occasionally, it will be appropriate for provincial government personnel to do inspections in exceptional situations where other options are not available. Inspections will continue only where the risk warrants their use and they are the best method available to manage the risk. Inspections are a fundamental part of quality management programs but are likely to be the responsibility of the organization maintaining the program. The role of inspections will also vary with the discipline.

Inspection is the oldest tool in the set of procedures available to enhance safety. In one form or other, it has been used for hundreds of years. The medieval Church employed "building inspectors" while the great cathedrals of Europe were under construction and Nelson's ships underwent a "safety inspection" before they put out for Trafalgar. Over the last several decades, codes and standards have been developed in an increasingly consistent manner and for an ever increasing number of subjects. Inspection has remained the most common method of promoting code compliance.

The routine of consulting a code and inspecting a thing has become so entrenched that it is sometimes easy to forget that the goal of the process is enhanced safety and not the inspection itself. The logic of inspecting is easy to grasp: if there is a doubt about something, look and see. For a modern day risk management system the questions are, "Under what circumstances is inspection the best method of enhancing safety?", "Who



should do inspections?" and "How often should things be inspected?" The answers to these questions are technical in nature and are derived from a consideration of available information on risks, and the technological and managerial options available in the given circumstances.

Inspections are one technique to enhance safety, but not the only one. Audits of established procedures and quality management programs are other techniques that are now available to serve in situations where inspections were formerly employed. For the provincial government, in most circumstances, on-site inspections no longer seem to be the best tool to enhance safety, nor the most efficient way to employ available resources. Whether inspections are the best tool for municipalities or corporations, and under which circumstances they are best used, will be a matter for them to decide based on their own experiences and the data available through the risk management information system. The new legislation will allow for the employment of whatever options are best under the circumstances. The provincial government will provide assistance and expertise in the development and employment of any alternatives that can be shown to enhance safety.

#### **4. Audits and Quality Management**

"Quality control" was first employed on a large scale by the American arms industry during World War II. After the war Japanese industry embraced the concept and everyone is familiar with the long term results on their economy. The term "quality management" is now widely used to describe systems employing a variety of techniques involving materials standards, processing, manufacture, sampling, testing, auditing and document control designed to enhance quality and standards compliance. Quality management allows for the production of more, better and cheaper goods. Safety is only one aspect of quality management, but if a product is not safe, it is not acceptable. Therefore, although quality management systems are of general benefit to industry and to consumers, they can be particularly useful in mitigating risk. It is better for all concerned if things are done right the first time rather than a certain portion of production being discarded or repaired at a later date.

Alberta Labour currently has a number of quality management programs in place for pressure equipment. These programs have been highly successful and it is appropriate to expand them to other disciplines where they can be of use.

One basic assumption of quality management is that an individual manufacturer, builder, municipality, etc., will develop and document a set of procedures designed to achieve compliance with the relevant codes and standards. This quality management system will then be "audited" to see that it is adequate in design and implementation.

Commercial concerns may wish to develop quality management manuals, and many already have them. These manuals, describing the standards to be met and the procedures to achieve them, may be submitted to Alberta Labour. If they meet requirements a permit may be granted to undertake the work specified in the manual. The company would then be audited from time to time to ensure continuing compliance. The auditing might be done on a random basis, or on more particular criteria, depending on the risk assessment of the particular enterprise.

In some cases, such as large scale pressure equipment installations, the auditing would be done by the General Safety Services Division of Alberta Labour. In other cases, such as residential and light commercial work, the municipality may be able to develop quality management procedures in conjunction with local firms. This would give the municipalities an option, other than a high level of on-site inspections, to discharge their functions under the Uniform General Safety Act.

A third option that will be available is to contract with a specialized firm, an "approved agency", to do inspection and audit work. As such firms develop, this should be an attractive option for smaller municipalities and, in certain locations, for the provincial government.

National and international standards for quality management programs have existed

for several years. These will be adapted and implemented to suit the various types of work to which they will apply. The availability of this approach to mitigate risk will be a benefit to the commercial sector, to the trades, and to those with responsibility to administer the Act. It will not, in all cases, be appropriate. It should, however, become a growing presence in the safety field because it is a technique that promises increased efficiency and effectiveness over the methods now employed.

## **5. Information Clearing House**

In the months leading up to the proclamation of the new Act, Alberta Labour will be active in canvassing the support of potential partners in the risk management system. The involvement of municipalities will be particularly important. During summer and fall of 1990, additional work on the information system will be carried out. Initially, municipal governments will be contacted for information about their current data gathering and processing capabilities and their future plans. Meetings will continue with industry and trade groups during which more detailed transitional plans will be developed.

## **6. Changes in Alberta Labour**

At the same time, the General Safety Services Division will begin reorganizing to reflect the new legislation. For example, field services provided by the division will be different in the future, therefore regional offices will be organized differently. At the head office level, more emphasis will be placed on developing and managing information systems and on working with the various partners who will be administering parts of the system. New job descriptions and classifications will, ultimately, grow out of these changes. Although some changes will be apparent immediately, others will take several years to be put in place. Employees of the General Safety Services Division will take part in developing the new organizational structure. Client groups will also be involved in any changes that would impact on the type of services available to them and on the manner of delivery.

In the years following the proclamation of the Act, field services will be progressively



confined to monitoring and auditing partner activities and to providing technical expertise and information derived from the risk management system. The employment of field inspections as an approach to safety will vary from one discipline to another. These decisions will be made after an assessment of the risks associated with various disciplines and of the ability of other partners to assume responsibilities. Alberta Labour will not be involved unless (a) the risk potential is sufficient to warrant that involvement, and (b) no other option is available to mitigate the risk. This changed emphasis and increased expertise will result in an overall enhancement in levels of safety.

## **7. Training for a Risk Management System**

The risk management system being put forward in this paper will remain no more than an idea until there are qualified people to staff it. The provincial government and many local governments currently have highly trained and competent staff to administer safety related services. However, the new system has some features that many of these individuals will not have encountered before, such as auditing, quality assurance standards, risk assessment procedures and working with the output of an automated risk management information system. Most importantly, the operational decisions that will result in risk mitigation will be made by safety officers employed by governments and non-government agencies and corporations. The preparation of individuals to fill these roles will require a co-operative effort among the many partners in the system.

The system is competency based, so all individuals working in it will have to acquire the competence appropriate to their jobs. This is another area in which change will be gradual. Just as it will take several years to develop and implement all the components of the system, it will be several years before all the participants have received training. Training and implementation are linked. One cannot proceed much in advance of the other.

Training resources are limited at the moment because there are few individuals sufficiently knowledgeable to be able to train others. However, once training has

sufficiently knowledgeable to be able to train others. However, once training has commenced the pool of potential trainers will "snowball" as will the availability of people to prepare necessary training materials.

There will be two major initiatives for training. One will be in-house provincial government programs for Alberta Labour staff. These will focus on matters essential to working in the organization. The other will be programs for developing safety officers.

The scope of training required will vary with the nature of the work to be undertaken. For the most part, training to work in the risk management system and to administer parts of the Uniform General Safety Act will not represent a major commitment of time or money. For example, most local government inspectors who will become safety officers already have a qualification in a discipline (e.g. electrician, plumber or gas fitter) and will need only to learn the particular administrative requirements of the new Act and regulations. These will be essentially similar to working with the present legislation so it will be no more than a matter of absorbing the new details. Along similar lines, the municipal requirements to report fires will be so little changed that they can be easily grasped by those familiar with the present system. More extensive training will be required for employees of industries that wish to adopt formal quality control standards (such as the CSA-Z299 series). This will be true as well for managers in local government who intend to use risk management techniques to deploy their resources and evaluate the results.

The formal structuring of requirements and competency standards related to the statutes and the regulations is an unavoidable consequence of implementing a new system designed to apportion decision making and control liability. At a more dynamic and human level partners in this system, including the provincial government, will learn from each other. In this way the participants will train each other, noting what works and what does not, developing the requirements as they emerge from experience and refining the "course content" for those who come after.

## **THE SAFETY COUNCIL**

Safety is a technical business. The administration of a safety system is largely the concern of governments and their staffs, but knowing what exactly is to be administered presents a different problem. The "raw material" for the system is detailed technical information on how safe things are, and under what conditions they can operate. Experts are needed to provide this information. Groups of experts, for example the Canadian Standards Association, are in the business of testing materials and products and publishing the standards that must be met to achieve an acceptable level of safety. Governments, like Alberta, can then adopt those standards and ensure they are complied with. However, new products are developed, standard writing organizations lag behind, different codes are put on the market by competing standards organizations, some experts disagree, innovative manufacturers and contractors propose things that have not been thought of before, and administrators are then faced with decisions on technical matters where they are not experts. Because these decisions are such an important part of a successful risk management system it is necessary to have a source of expert advice and to have an independent body that can make these technical decisions. That is the role being proposed for the Safety Council.

For several years the Building Standards Council and the Fire Prevention Council have served successfully in their disciplines to promote fair application of high safety standards. The new Council will build on those strengths. It will encompass all the disciplines covered by the Uniform General Safety Act and represent the highest available technical expertise in each area.

### **1. Composition of the Council**

The Council will be a "competency based" organization, in keeping with the overall approach to a risk managed system. The Council will consist of six "sub-councils", one for each technical discipline, and an executive committee. The sub-councils will be:



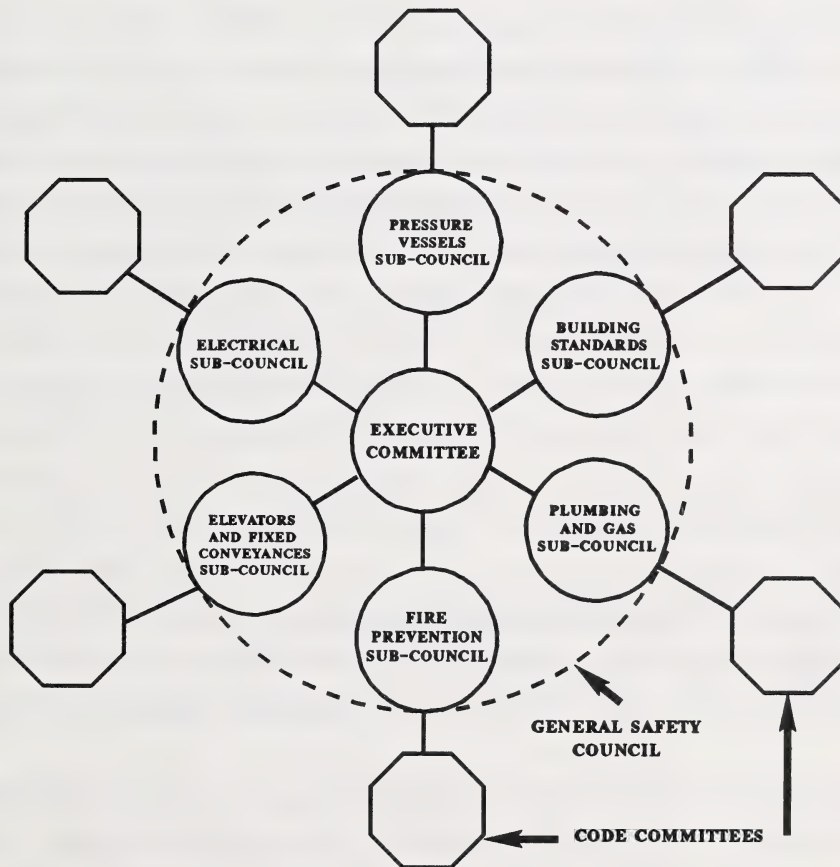
1. Pressure Equipment
2. Building Standards
3. Electrical
4. Elevating Devices
5. Plumbing and Gas
6. Fire Prevention

Each division will be headed by a "vice chair" who will be a member of the executive committee. The executive committee will have a chair and will be supported by a secretary. The secretary will be a senior manager from government who will be a non-voting member of the Council. The secretary will provide the necessary support services to the executive committee and the divisions. No Alberta Labour staff member will be a voting member of the executive committee or any of the sub-councils.

Each sub-council will have associated with it a "code committee". These committees will perform tasks similar to several technical advisory committees now in existence. They will work with the Council, but have extensive technical support from Alberta Labour staff.

The specific mechanism to appoint members to the Council and its sub-councils has been the subject of several inquiries from those who commented on Discussion Paper #1. Firm decisions on appointment procedures are yet to be made and further comments are invited. The intention at this time is that council members would be appointed by the Minister of Labour from a list of nominees proposed by groups representative of a broad range of discipline interests. Based on comments from Discussion Paper #1, this would meet most of the concerns expressed to date.

# GENERAL SAFETY COUNCIL AND CODE DEVELOPMENT COMMITTEES



A number of factors will influence the decision as to how many members the Council will need and how frequently the Council and its sub-councils must meet. One factor is that the volume of work is likely to vary significantly between sub-councils. Another factor is that code related work is likely to vary in each discipline, depending on the code cycle for that subject area.

Final decisions about the composition of the Council sub-councils will not be made before the results of this stage of consultation have been completed. At this time it would appear that each sub-council would require between five and eight members selected from a matrix of appropriate organizations, appointed on a three year term with appointments staggered to ensure continuity. The Council would have to meet at least once a year, and on other occasions where codes and regulations needed to be considered or other matters arise. The sub-councils would meet as required. The work of the code committees, and therefore the need of the sub-councils to liaise with the code committees, would likely vary with the code cycles of each discipline. The time frames for codes are largely determined by national and international organizations and not subject to control by the province.

## **2. Dispute Resolution**

Disputes will arise about the application of a code or standard (orders) and about the granting or withdrawing of delegated authorities based on technical competence and appropriateness. The Safety Council will be given authority to resolve such disputes.

Decisions about non-compliance and non-competency affect people directly. Their livelihoods are put at risk and their property rights are put in question. They should, therefore, have the right to appeal such decisions to an independent, technically astute tribunal. They should have the right to put their own evidence forward. They should have the right to cross-examine the evidence and opinions of the opposing side. They should have the right to counsel. And, they should have the right to receive written reasons for a tribunal's decision. They will have these rights in the new legislation.



The Safety Council will have the authority to enforce such rights and to resolve disputes. Appeals from the Council will be allowed, but only on questions of law and jurisdiction which may be referred to the courts.

#### **a. The Council Role in Accreditation and Approval**

Municipalities and corporations wishing to become accredited, and agencies wishing to be approved to work for those municipalities and corporations, all need to present detailed technical plans about the services they intend to provide, and the methods they intend to use. As a first step, these plans will be reviewed by Alberta Labour. This could result in the plan being rejected because it is technically inappropriate, or a technical question could arise. The appropriate sub-council will hear appeals against rejections on technical grounds and can be consulted on technical questions.

#### **b. Certificates of Competency**

Certificates of competency are granted under the present legislation by Boards of Examiners. These functions will be taken over by the Council's technical sub-councils. The appropriate technical sub-council will set examination standards, supervise exam marking and administer disciplinary provisions for certificate holders. The Safety Council's executive committee will develop standard rules which will apply to safety officers and to disciplines in areas of general application.

#### **c. Appeals from Safety Officers' Orders**

The sub-councils will hear appeals arising from safety officers' decisions in the field. Fire prevention and building standards have had this type of appeal to councils for a number of years. This has worked well and will be extended to all disciplines. Appeals of all types have been infrequent and are likely to remain so. Notice of appeal will be served on the secretary of the Council. A quorum of the appropriate sub-council will hear the

appeal and decide on its merits based on the applicable code or standard, taking into consideration the safety issues involved. The decision of the sub-council will be final on technical matters but can be appealed to the courts on a point of law or jurisdiction. Informal avenues of dispute resolution and interpretation will continue to be available through Alberta Labour staff, but these will in no way preclude or prejudice the right of appeal from a safety officer's decision.

### **3. Adopting Codes**

Putting codes in place is a two stage process. First the code must be developed and then the government must give it the force of law. Giving a code the force of law is a simple process if the code has been developed by a recognized technical agency such as the National Research Council. A regulation made by Cabinet can refer to the code by name and declare it to be in force in Alberta.

The process has been more difficult where a code or standard was needed in Alberta but no recognized technical agency had developed one that was suitable. In the past, in these circumstances, Alberta Labour developed a code and every word of it had to be passed as a regulation. It is now proposed that the Safety Council serve as a recognized technical agency and oversee the development of any codes that are needed to apply specifically to Alberta. In this way a code developed by the Safety Council can be adopted as simply as can one from the National Research Council. This will guarantee a high level of technical competence in the development work. It will also allow codes to be put in place or amended more quickly than was previously the case. This is an advantage in a rapidly changing technical world.

The Safety Council will also recommend which national and international codes should be adopted and what amendments they may need for application in Alberta.

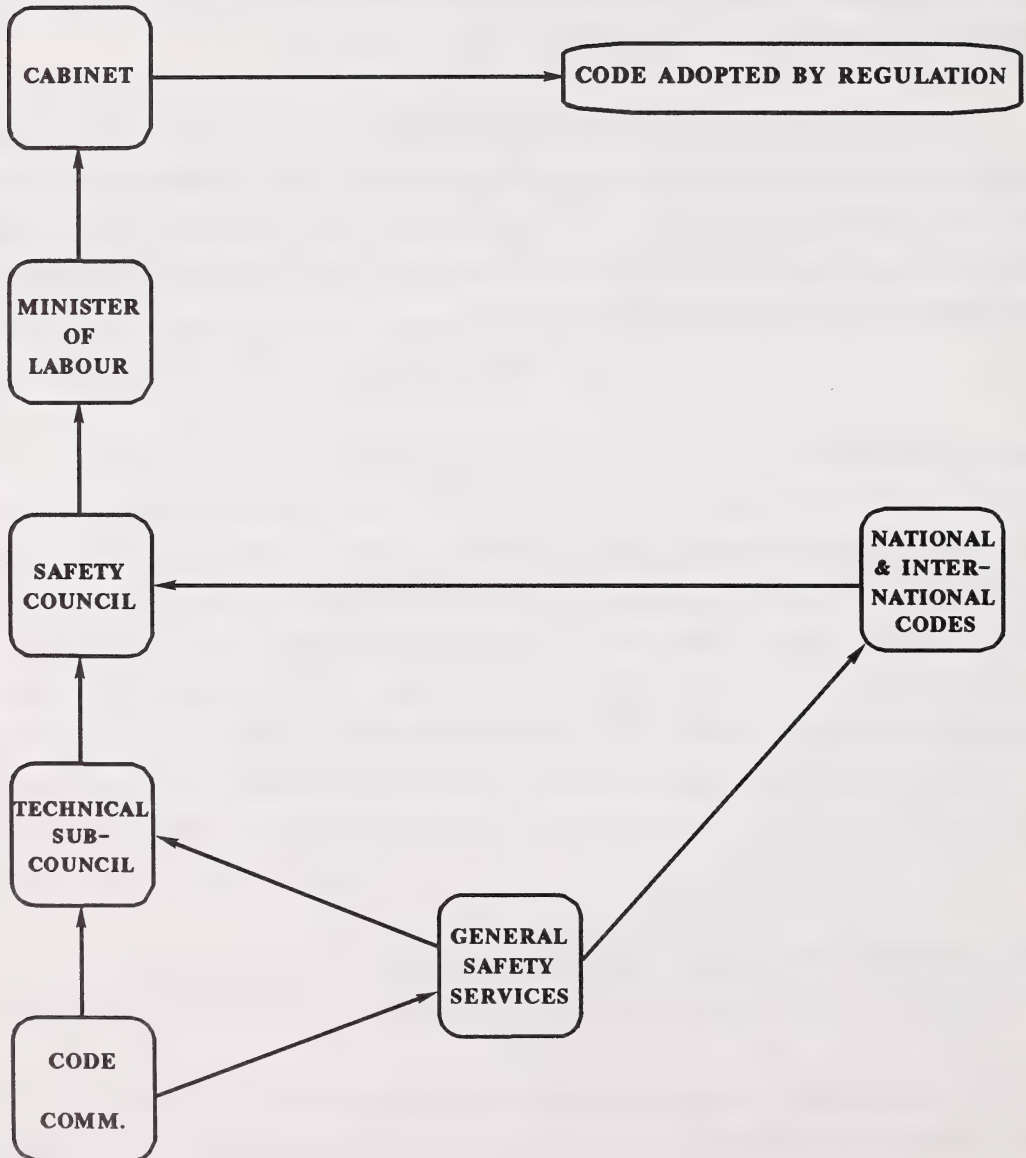
The process of code development will begin with the code committees. Alberta Labour staff and industry experts on these committees will constantly monitor changes and

additions required for the codes in their discipline. Their proposals will be reviewed by the appropriate sub-council and, when the sub-council is satisfied with the content, the code will be put forward to the Executive Committee of the Safety Council. Review by the Executive Committee will ensure harmony between the requirements of the various disciplines. For example, the Fire Code may have an impact in the area of building standards or electrical work, or vice versa. A code which is acceptable to the Council will be put forward to the Minister of Labour with a recommendation that it be adopted.

In effect, the same technically knowledgeable groups and individuals will have input into the new code, and in the same way, as they do now. The difference will be in the speed and simplicity with which codes can be adopted. This proposal will also allow Alberta experts to be recognized and appointed to the Council and the code committees, thus making better use of this valuable resource.



# SAFETY CODE ADOPTION



The final decision to adopt a code will be made by Cabinet. This is not just because this step is required to give a code the force of law. It is also because codes and standards have an impact on the economy and on the life style of everyone who lives or works in the buildings constructed and maintained to the standards, or earns a living by selling or working with the code approved equipment. These are not safety issues, but they are every bit as much in the public interest. In the last analysis, balancing competing public interests is the job of government. For this reason, to take one important example, Alberta's Building Code will continue to contain provisions concerning disabled persons' access to public buildings. It is in the public interest to do so.

## **ACCREDITATION AND APPROVAL - DELEGATED FUNCTIONS**

The existing seven safety statutes are administered at a number of different levels. For example, a large number of municipalities have taken on functions related to building standards, and a smaller number have taken on plumbing, gas or electrical functions. Pressure equipment remains a provincial government function, except that several companies have undertaken quality management programs which transfer a significant level of responsibility to those companies. A study of the existing arrangements showed a potential for taking the best from each of the present statutes and allowing for the possibility of offering those options in all disciplines.

This idea was strengthened and enlarged upon by the comments received on Discussion Paper #1. Some municipalities were concerned that they did not have the expertise to take on particular functions, such as pressure equipment and elevating devices. In turn, some large commercial installations were comfortable with their in-house expertise but sceptical of third party involvement. From another perspective organizations with expertise in certain areas were concerned that full advantage would not be taken of the capabilities they had to offer.

A clear pattern of options emerged from the consideration of existing provisions and suggestions made through the consultation process. It is obviously appropriate to continue with the services now provided by municipalities, and seek to expand those services wherever possible. This will be done through "municipal accreditation". In other cases it may be appropriate to consider the option of allowing municipalities to contract with private firms for expertise that is not available within the municipal structure. To do this, private firms meeting the appropriate requirements would become "approved agencies". A third option, one that was not originally proposed, was suggested by a number of respondents. This is the "accredited corporation" which, under appropriate supervision, could assume wider responsibilities than those allowed by the present legislation.

The new legislation will provide many options for the provincial government, local



governments and the private sector. Responsibility to administer the new Act, or portions of it, will be delegated to those who are willing and able to assume the responsibility. It is not the intention of the provincial government to coerce participation in the risk management system. That would be counter-productive. Rather, options will be offered which will make participation beneficial. For municipalities the options of cost recovery, sub-contracting and service delivery variations should make participation attractive. In some cases, municipalities who are now involved may find that these options increase efficiency and flexibility within their existing administrative structures. Industry might also find that benefits of quality management programs tied into the risk management system outweigh costs of administrative requirements which will be part of effective participation. Many of Alberta Labour's current programs enhance customer confidence because of the quality standards in place. Making this option available to more industrial sectors should be beneficial to all. The target is an acceptable level of safety achieved through an efficiently managed system. The intent is not to get others to solve a provincial government problem. The intent is to secure the participation of all partners who share the problem of conducting their affairs in a safe and publicly acceptable fashion.

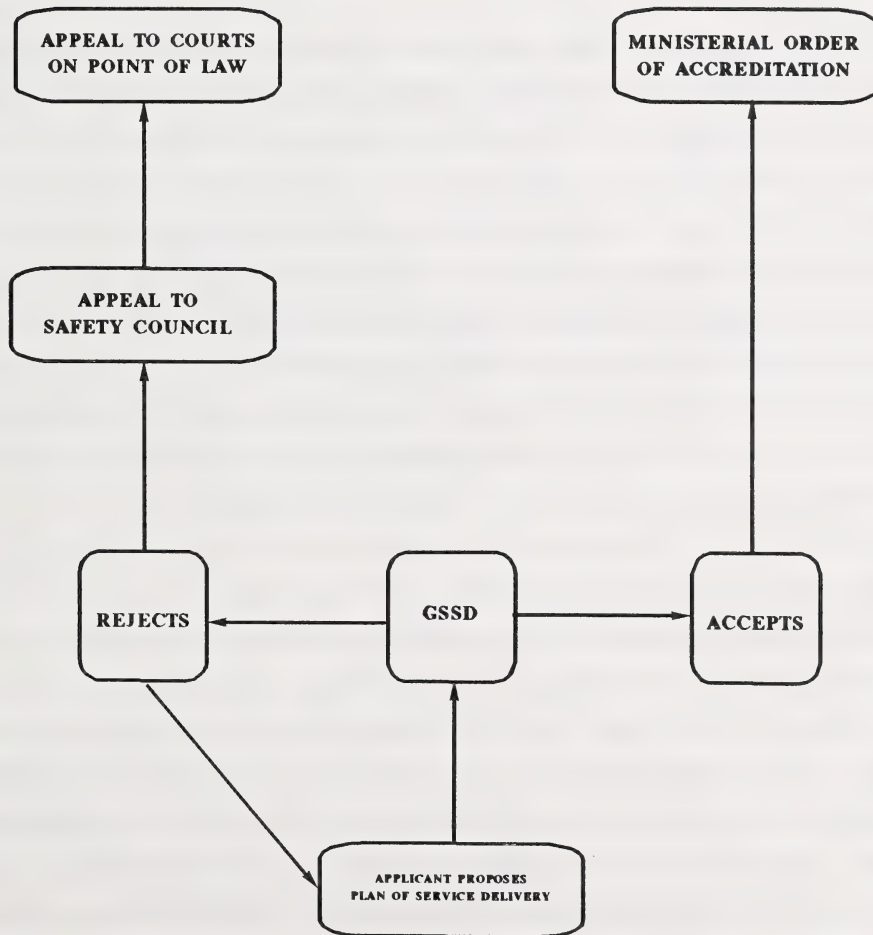
Becoming an accredited municipality or corporation, or an approved agency, means the transfer of authorities and responsibilities from the provincial government to the new partner. The detailed procedure for delegating authorities will vary between the types of applicants, but the principles will be the same. Safety is the paramount concern and will be addressed at two stages in the delegation process. On the one hand, the technical competence of the individuals in the organization must be assured along with the technical appropriateness of their proposal. That is to say, their proposal to manage risk must be workable, and that is a technical question. On the other hand, there are policy considerations about how the proposal will fit into the overall risk management system and the impact it may have on other partners. In other words, to be acceptable a proposal must be both technically workable on the small scale and, on the large scale, it must make a positive contribution to the province-wide system.

The applicant will make a proposal to Alberta Labour, General Safety Services

Division. There the proposal will be reviewed and either rejected or put forward for approval by the Minister of Labour. The proposal could be rejected on either technical or policy grounds. In practical terms, any such difficulties are likely to be resolved at an early stage by discussions between the applicant and Alberta Labour. An unresolved technical matter could be appealed to the appropriate sub-council of the Safety Council, and from there to the Court of Queen's Bench if the point turned on a matter of law or jurisdiction.

# DELEGATION

## (MUNICIPALITIES, CORPORATIONS, AGENCIES)





## 1. Accredited Municipalities

There are four possible roles for municipalities: accredited municipalities that deliver services; accredited municipalities that contract for services; municipalities that do not participate in the risk management system; and, municipalities who will be involved through some combination of these options.

Alberta Labour has a large data base of current and historical information on municipal involvement and the division of service delivery between provincial and local governments. An analysis of that data indicates there is only a limited scope for increasing the number of municipalities that deliver services themselves. Most municipalities with a sufficient volume of work to make self-delivered services practical are already providing these services. Which services are provided by which municipalities is, to some extent, best explained by historical circumstances. Some municipalities are active in certain areas and not others although they would seem to have the expertise and capacity. In these cases, the provincial government will attempt to secure municipal participation. In practice, most municipalities will be of the fourth type outlined above. They will provide some services and not others. Each municipality will be free to decide its role.

When the new Uniform General Safety Act is proclaimed, it will "grandfather" all municipalities who are administering any of the current safety Acts. Existing municipal inspectors will also be "grandfathered" as safety officers. This will provide continuity of service for the months and years it will take for the new system to develop. Because the new system will be competency based, there will come a time when municipalities and their employees will have to be "accredited" to the requirements of the new legislation. The exact requirements for this "roll over" cannot be decided without continuing consultations with municipalities, and other partners, and studying the issues that arise as the new requirements are actually being implemented. The change over will begin as soon as municipalities are ready. It will be completed not later than five years after the legislation is proclaimed. New municipalities that join the risk management system and

new municipal employees who will administer parts of the system will be subject to the accreditation and individual competency requirements as soon as the legislation and regulations are in place.

Requests from municipalities to be accredited, or to cease to be accredited, will be subject to evaluation so that continuity and safety levels can be maintained. Where a municipality is accredited it will bear the responsibility for the services provided within its boundaries and the role of the provincial government will be advisory. Several municipalities were concerned that the proposals in Discussion Paper #1 allowed a significant level of intervention by provincial employees even where the municipality had undertaken the responsibility. This point is well taken and the legislation will be modified to reflect the principle that authority and responsibility must be balanced. The delegation of one requires the delegation of the other. There will be no administrative interference on the part of the province when an accredited municipality administers the safety system. Close ties will be maintained in technical areas between municipal safety officers and Alberta Labour staff. This will be necessary to assure the flow of information and the uniform application of codes and standards. Accredited municipalities will be required to report information to the risk management information system and that information will allow the provincial government to assess the performance of the municipality. Accreditation will be removed where adequate risk management is not maintained.

Accreditation for a municipality to deliver services will be extended to a municipality, at its request, after it establishes that the resources, organization, reporting structures and skill levels are appropriate to the functions it wishes to take over. For example, a small municipality wishing to deliver services concerning electrical installations would indicate that it had on staff, or intended to hire, an electrician who had or would get safety officer status. The municipality would also show how it would provide the administrative support and supervision required for issuing permits, undertaking inspections, writing orders and making reports. For a larger municipality where the volume of work is more than one person could undertake, the administrative requirements would, of necessity, be more elaborate. Most municipalities delivering their own services are likely to do so for a number of disciplines,

for example, plumbing, gas, electrical and building standards. The accreditation procedure would be the same in these cases. The municipality would develop a plan for an organization and staff to deliver the proposed services. The plan would be submitted to Alberta Labour and approved if it met requirements.

The specifics of the requirements will evolve with time. At the most basic they will ensure that the plan put in place by the municipality will be capable of meeting or exceeding acceptable levels of safety and of taking the actions that would be required based on risk management information. For example a municipality might propose to do 100% inspections of gas installations, or less than 100% random inspections, or it may propose some inspections along with quality management audits of local installers. If particular high risk factors exist in the municipality, its plan would take those into account too. Different factors would come into play, depending on local conditions and the service delivery options the municipality is contemplating. Certain minimum standards will emerge, but each case will have to be judged on its merits. Staff from Alberta Labour will be available at all times to assist and to provide advice to municipalities developing plans to be accredited.

A municipality may not want to deliver its own services, or at least not all the services that the community may require. In such a case the municipality could be accredited to contract with an approved agency. The procedure and general requirements will be the same as for accreditation to deliver services. (Approved agencies are discussed in the next section.) For example, a municipality may already have a building standards officer and plan to employ an electrical safety officer but it may not have a sufficient volume of work to employ a safety officer for plumbing or gas installations. In this case an approved agency qualified in those disciplines could contract with the municipality to provide the service. The agency would work under the supervision of the municipality. In this way residents of the municipality would have all the services available to them without the tax burden of inefficient or under utilized local government administration. Depending on how approved agencies develop and the services they choose to offer, it may be possible for a municipality to contract for a "turn-key" service where the agency would provide all



the required expertise and almost all the administration. A smaller municipality might then be able to provide for and supervise a full range of services without the administrative overheads that would otherwise be required. Larger municipalities may find the contracting option desirable when temporary work load fluctuations put pressure on their available resources, such as during building booms or the construction of a large or complex facility.

A further possibility for municipal participation is that two or more municipalities would join together to provide services. The statute will allow for this. There are obvious administrative issues in this option that the municipalities would have to be prepared to deal with. On the other hand, there may be some cases where one municipality would wish to contract some services from another, in the same way that they might contract with an approved agency. The statute will allow for this as well. It may be a viable option where a small municipality borders on a large one.

The intent of providing such a broad range of options to municipalities is to increase the likelihood that high quality risk management will be universally available in Alberta. The provincial government has never provided more than a portion of all the safety related services. The bulk of these services has always been provided by municipalities. Technical, social and economic changes have put pressures on the existing system both at provincial and local levels. Citizens have high expectations of local services, the state of the economy fluctuates and technology continually changes. In these conditions flexibility and viable options are the only paths to meeting safety requirements and public expectations of service. The existing statutory and administrative structures provided neither the flexibility nor the options to deal with the present pace of change. Management skills could not be brought to bear on these problems as the statutory requirements were too rigid. The proposals in this paper as a whole should provide significant improvements in effectiveness and efficiency when they are applied at the municipal level.

## **2. Approved Agencies**

Approved agencies will be private ventures that demonstrate the technical and



managerial competence to administer parts of the Uniform General Safety Act. These agencies will be approved by Alberta Labour and may then contract their services to any level of government or organization that is accredited under the Act.

As private ventures, the market forces of supply and demand will determine the number and functions of the approved agencies that emerge, within the framework of standards set for approvals. There is a broad potential demand for these services. The provincial government may choose to engage them to do certain types of work or to work in certain areas. For example, it might be most efficient to contract with these agencies to provide services in remote areas adjacent to developed areas where the agencies are already working. Larger municipalities might wish to contract specialized services related to particular large developments, or to retain approved agencies to deal with workload overflows. The largest market for approved agencies is likely to be outside the major population centres. A number of small municipalities in an area might not be able to efficiently provide their own services or organize to share services between themselves. However, an approved agency could provide service for the entire region, meeting the safety needs of the area without imposing an administrative burden on the individual communities.

The supply side of the economic equation for approved agencies is also broad. At one level consulting engineering firms could provide a host of services with a large staff of great technical depth. On a smaller scale, a retired firefighter or electrician might wish to offer part time services to his or her home community. Alberta has a large population of individuals with experience in the building trades. Approved agencies can tap this wealth of knowledge to promote safety. How this market sector develops will depend on the initiative of individuals with the qualifications, but also on the willingness of municipalities to contract these services.

Some people have suggested that approved agencies will create a conflict between the profit motive and safety. As always, the issue is decided by the checks and balances with which the system operates.

An approved agency will have to demonstrate the same level of competence that would be required for a municipality to become accredited. The agency will be required to engage technically competent staff and its field services will have to be delivered by individuals who have qualified as provincial safety officers. These agencies will regularly report their activities to the provincial government and Alberta Labour staff will regularly audit their work. A prime consideration will be that these agencies remain clear of conflicts of interest. While municipalities will be free to contract the services they think are desirable or necessary, provincial government controls on the qualifications of staff, record keeping and audits of work and work plans will assure a municipality of the quality and appropriateness of the services they receive.

Firms or individuals interested in working as approved agencies are invited to contact the General Safety Services Division of Alberta Labour. No agency can be approved before the new legislation and regulations are in place. At this time, interested parties wishing to undertake preliminary work or planning are encouraged to begin talks with Alberta Labour staff. As a new market sector, conditions are likely to remain fluid for the first few years. Building on the base of available expertise within the province and the diverse needs of the municipalities, approved agencies have the potential to become profitable endeavours for those undertaking the work and efficient alternatives for those contracting the services, while at the same time enhancing safety for Albertans.

### **3. Accredited Corporations**

Accredited corporations are a new concept that was not part of Discussion Paper #1. An accredited corporation could administer all or part of the Act in keeping with the terms laid out in the accreditation.

Several large companies who contributed to the previous round of consultation proposed the idea that "owner/users" be allowed to administer parts of the Act. Alberta Labour's Boilers Branch has set the precedent for such a practice. Their experience shows that the practice maintains a high level of safety and is cost effective as well. The concept

of accredited corporations might usefully be extended to other disciplines. Also, accredited corporations might be used in cases where it is unclear whether Alberta Labour has legal authority to compel an organization to comply with provincial codes and standards. Examples include universities and installations on federal land.

Corporate accreditation will be individual and specific and decided on the merits of the location and the administrative capabilities of the controlling corporation. The onus will be on a corporation to develop the documentation necessary to demonstrate competence for the tasks it proposes to take over. In highly technical or complex operations it may be necessary to provide an independent third party review and recommendations on particular applications at the expense of the corporation. In most cases, adoption of acknowledged quality management standards will form the basis for corporate accreditation. Safety officers trained to provincial standards and certified by the province will be employed by the corporation to administer parts of the Act. The scope of accreditation can vary significantly. For example, a university could be accredited to perform all functions required under the Act for all the facilities under its control. On the other hand, a corporation in the oil and gas industry might wish to be accredited for only certain disciplines and at only some of its sites. Accredited corporations will report regularly and be audited by Alberta Labour staff.

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The concepts contained in this section are designed to allow authorities to be delegated in ways that will take advantage of available expertise and allow risk management decisions to be made in close proximity to the sources of potential risk. It is a system of options; options for governments, corporations and technically expert individuals. A constellation of interests exists between all potential partners in the safety system. The selection of options in one sector will influence options available in another. For this reason the development and implementation of options will be a joint effort. It will involve consultation and negotiation on an ongoing basis. The provincial government is taking a leadership role to the extent that new legislation and policy will make these options

available. Beyond that it falls to other participants in the system to use the options as they see fit. The options have been designed so that they may work to the mutual benefit of all concerned. Alberta Labour, through the continuing consultation process, has an interest in seeing these options used with the greatest efficiency possible.



## **CERTIFICATES OF COMPETENCY**

### **1. The Concept of Competence**

The word "competence" has two senses and both of them are important in this context. One sense of the word is that someone knows how to do something and has proven so in practice. The other sense is that someone is legally allowed to do something, such as in the phrase "a court of competent jurisdiction".

The Competency Regulations made under the Uniform General Safety Act will incorporate both senses of the word. The risk management system will include a mechanism to certify individuals as technically and legally competent to undertake tasks required for the administration and enforcement of the Act and regulations. These individuals will be known as safety officers. Other individuals will be certified as competent in technical areas, such as power engineering and pressure welding, that are under Alberta Labour jurisdiction, but they will not be safety officers unless their work also requires administration of the Act.

### **2. The Role of Qualifications in Risk Management**

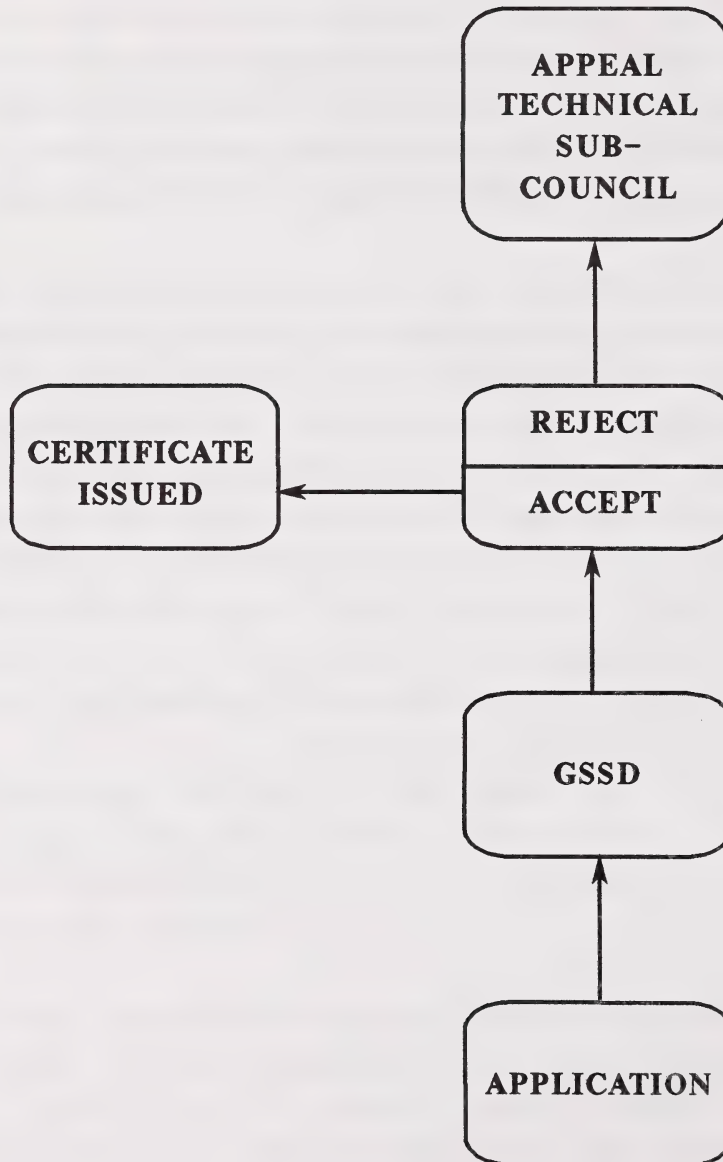
Long experience has shown that regulating people who work with a technology is an effective way to manage the risk peculiar to that technology. A century ago Power Engineers emerged as a regulated line of work precisely because boilers were dangerous. The logic holds true to this day.

There are many ways inside and outside of government by which a person can get a "qualification" that may be appropriate for work in the risk management system. University degrees, diplomas from technical colleges, journeyman status through an apprenticeship program and on-the-job training can all provide technical knowledge and serve as proof that an individual is knowledgeable in a subject area. Many government departments are involved in regulating qualifications of one type or another, including

Alberta Labour. By and large, the role of Alberta Labour in training, examining or certifying individuals has an historical explanation rather than a logical one. For example, Power Engineers are examined and certified by Alberta Labour, as are Master Electricians. Those are occupations for which training can be received at several institutes, yet the legal authorization is granted by Alberta Labour. These provisions go back many decades and pre-date the emergence of technical institutions and regulated apprenticeship programs. Historically, Alberta Labour always has been involved, even though other government departments with overlapping authorities have emerged in the intervening years.

So, what is Alberta Labour's appropriate role with respect to the granting of qualifications and certification? Duplication between government departments is inefficient and undesirable. On the other hand, there are skills of use in the risk management system that are not covered by other government departments or educational facilities. Put at its simplest, Alberta Labour would prefer to recognize qualifications granted by agencies whose mandate is training. However, where this option is not available, Alberta Labour must continue to be involved. Safety is the paramount consideration and training is one means to promote safety. There is a legitimate and inevitable overlap between training and safety. Alberta Labour will continue operating the Fire School and certifying Power Engineers and Master Electricians as long as no equally good means emerge. No such alternatives are on the horizon at this time and none are being considered.

# COMPETENCY CERTIFICATES



### 3. Safety Officers

"Safety Officers" will be the most important addition to the competency system. A safety officer will be an individual issued with a certificate of competence to administer all or some part of the Uniform General Safety Act. Safety officers will be the only individuals legally allowed to undertake some of the functions required by the Act. As an example, only a safety officer will be able to make an inspection, issue an order or approve a design. All organizations that have delegated authorities under the Act will be required to employ safety officers. Accredited municipalities will employ safety officers. In a smaller municipality "safety officer" may not be the only job an individual has whereas in a large urban centre there may be managerial safety officers supervising large staffs of safety officers for several of the disciplines. Approved agencies would employ safety officers to provide their field services and accredited corporations will have safety officers on staff.

Concerns were raised following Discussion Paper #1 that there might be generic safety officers, which is to say individuals qualified as safety officers in all disciplines. Not at all. Such a concept would run counter to a major principle of the system: that all decision makers be competent in the work they perform. It is possible that some people will have demonstrated technical competence in more than one area and could therefore be certified safety officers in more than one discipline. For example, because the requirements in the Fire Code and the Building Code have much in common, it is possible that some individuals could qualify to become safety officers for both disciplines. Such combinations of certificates of competency would not be precluded by the legislation but in practice they are likely to be rare. Although the principles of risk management and the knowledge required to work with codes and regulatory requirements have much in common for all the technical disciplines, the disciplines themselves remain distinct. Certification of safety officers will reflect this reality.

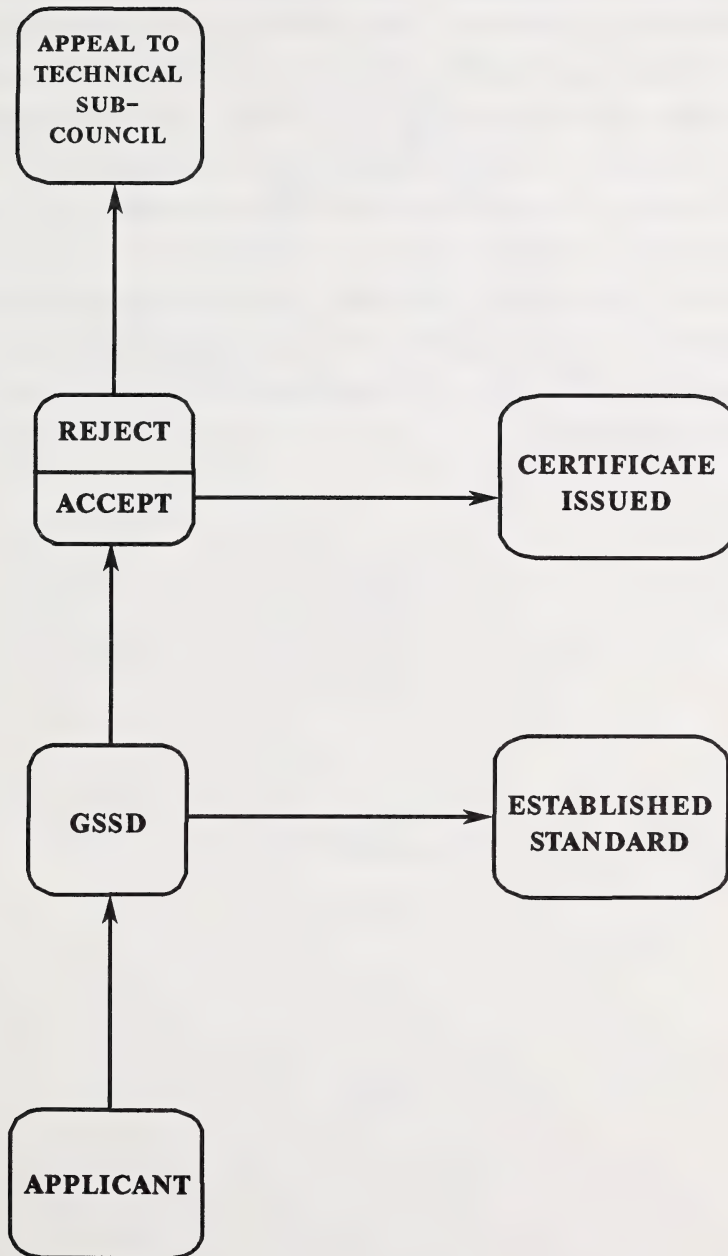
Qualifications for safety officers will vary with the work they do. Equally, the requirements to qualify will be proportional to the responsibilities. For instance a "Safety



Officer - Fire" working in a rural area may have duties under the Act that only extend to filling out reports on fires. Such a person may have a host of other duties for the municipality and "Safety Officer - Fire" would form only part of the job description. In this case a demonstrated knowledge of the requirements of report writing may be easy to establish. At the other extreme a safety officer employed by Alberta Labour as a risk analyst in a highly technical area like pressure vessel field services would require a professional qualification as an engineer as well as qualifications in risk analysis. The requirements will be as varied as the jobs but they will have in common the requirement that the skills and experience will be adequate for the decisions required.

In the case of most safety officers, the certificate of competency will have two parts. One will be the demonstration of competency to administer required parts of the Act and regulations and the other will be a demonstration of competency to operate in the particular discipline where the safety officer will work. For example, someone doing electrical inspections would be qualified both to administer the Act and as an electrician. This logic will be applied to all the disciplines. It will ensure the technical competence of decision makers in the field.

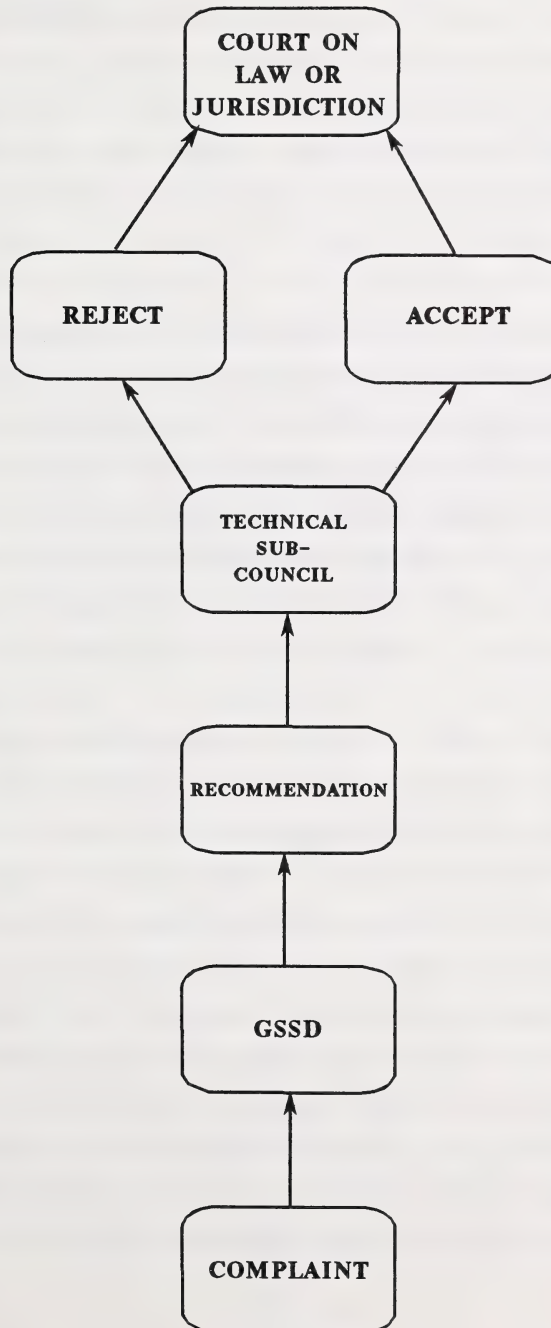
# **SAFETY OFFICER**



Alberta Labour will administer the competency regulations and provide for the granting of certificates of competency. These certificates will impose a duty on those who hold them. The obligations of the safety officer will be to uphold the Act and regulations, including appropriate codes and standards, and to identify, report and take action on safety issues. If these obligations are not met, the safety officer designation can be removed. A safety officer who does or condones an unsafe thing, or something that does not comply with a code, or whose conduct impairs the participation of a partner in the risk management system, will be subject to discipline. A complaint will be reviewed by Alberta Labour and passed on to the appropriate technical sub-council of the Safety Council. They will hear the case and their decision can be appealed to the Court of Queen's Bench on a matter of law or jurisdiction.

# DECERTIFICATION PROCESS

(SAFETY OFFICER OR COMPETENCY CERTIFICATES)





Employers with delegated authority under the Act will not be able to continue to administer the Act without safety officers as employees.

The linking of a safety officer's certification with adequate and responsible job performance is central to the operation of the safety system. Although many safety officers will not be employed directly by Alberta Labour, they will be "responsible" to it in several important ways. They will be responsible to see that codes and standards are complied with, responsible to report accidents and "near misses", and they will be responsible to report unsafe conditions.

Another way to think of the responsibilities of a safety officer is to think of "safety officer" as being an "office". The holder of an "office" has responsibilities beyond immediate self interest. This concept of "office holder" is found in several areas. The "office" of Mayor imposes certain duties and responsibilities, as does being a lawyer. Lawyers are all "officers of the court". Holding such an office means putting the responsibilities of the office before other things. An example of this from the legal profession is relevant to safety officers. A lawyer must treat the information he receives from a client as confidential. This is "solicitor/client privilege". The same will be true for a safety officer. The safety system would break down through lack of co-operation if a safety officer revealed to one manufacturer the "trade secrets" of another. A safety officer who does not respect this confidence will lose his certification. Another type of office holder is a "police officer". Police officers are expected to use their judgement to uphold the law and to protect life and property. There are countless examples of police officers putting the welfare of others above their own safety. For a safety officer the situations may not be so dramatic, but the principles will be the same. A safety officer will have to use his or her judgement and to take action against unsafe conditions even though his or her employer may find those actions inconvenient. By virtue of being certified as a safety officer, the safety officer's authority in such matters will be final (subject to an appeal to the Safety Council). In the case of safety officers employed by the private sector, the law will protect the employment of a safety officer exercising his authority. In other words a safety officer cannot be fired just for doing his job. This model has been in place for decades for Power Engineers.

They have responsibilities for the safe operation of pressure equipment, for example in power plants, that sometimes puts them at odds with the company's interests in production. This system of responsibilities, checks and balances has worked so well that it is being used as the model for safety officers.

Safety officers will take a lead role in the enforcement of codes and standards. Enforcement is important for two reasons. Each individual installation, site or situation to which a code or standard applies must be in compliance with the code or standard. Beyond this, codes and standards need to be applied uniformly throughout the province. In the great majority of situations where codes and standards apply, compliance with them is voluntary. In many situations where the requirements of codes and standards have not been met there has been an inadvertent error which is corrected after it is pointed out. However, situations do arise where there is an unwillingness to meet requirements. To deal with these situations, safety officers will have the authority to issue orders requiring that certain things be done, or not done. Some of the present codes and standards have been enforced through orders, while others have not. In future, orders will be the enforcement mechanism for all the code governed disciplines. If the person receiving an order does not agree with it, it may be appealed to the Safety Council.

Only safety officers can issue orders, but not all safety officers will be authorized to do so. For example it would not be appropriate for a safety officer employed by an accredited corporation to prosecute his employer. In this case the safety officer would be obliged to bring the matter to the attention of a Director of General Safety Services or his delegate. The Director, who is also a safety officer, would issue the order if he judged that to be the appropriate course of action. The same mechanism would apply to safety officers who were employed by approved agencies. Because orders can lead to punitive sanctions, it is necessary that the authority to issue them be kept under the control of governments rather than private sector concerns. The use of enforceable orders has been rare in the past and, hopefully, the need for them will continue to be rare. However, safety violations can create such potential dangers that it would be unacceptable to develop a risk management system that did not have strong legislative authorities to force compliance.

The Hagersville tire fire is a disturbing example of what can go wrong. In that case it seems that safety authorities were aware of the potential danger but did not have the legal tools available to them to mitigate the risk. The Uniform General Safety Act will make provision for issuing and enforcing orders so that Albertans will not be exposed to unacceptable dangers.

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Certificates of competency for safety officers will be the guarantees that qualified people are making unbiased safety decisions. In the past those working to achieve safety and code compliance were called inspectors. Today the techniques available to promote safety and mitigate risk have gone beyond simple inspections. For the most part, the work of safety officers will be the same as that done by present day inspectors. However, this new post of safety officer has potential to be a more complete and satisfying job with a chance to learn new subjects and to exercise informed judgement responsibly. With the co-operation and effort of those who become involved, safety officer will become a career where transportable skills can be used in the public and private sectors both at the level of providing field services and in management.

## **THE STATUTE AND THE REGULATIONS**

### **1. Principles and Administrative Strategies**

The new Uniform General Safety Act will have the same scope as these present statutes: Gas Protection Act, Fire Prevention Act, Electrical Protection Act, Plumbing and Drainage Act, Uniform Building Standards Act, Boilers and Pressure Vessels Act, and Elevator and Fixed Conveyances Act. Although the scope will be the same, the specific provisions and administrative strategies embodied in the new Act will be different.

Combining seven existing statutes into one new statute is proving to be a technically challenging task. The review process begun in the Autumn of 1989 raised several issues which are being addressed as the legislation progresses through successive drafts. At a general level, concerns were expressed as to the variation in the degree of detail contained in the draft statute. On some topics the draft was minutely detailed, while in other areas it restricted itself to general principles.

A perennial question in drafting legislation is what goes into the Act and what goes in regulations? There are no hard and fast rules on this subject and fashion has changed over time. Because some Alberta safety legislation dates back to the first years of the province, while other statutes are recent, there was no consistency between the various Acts in the way statutory authorities and regulatory provisions were treated.

Some groups have said that their particular situation is better described in legislation than in regulations. Their concern is based to some degree on tradition and to some degree on the belief that statutes are less subject to rapid change than are regulations. With the increasing complexity of legislation and scheduling pressures on the Legislature, complex regulations are being changed less often than before. The Regulatory Reform Office of Executive Council (the Cabinet) specifies that all regulatory proposals be reviewed by concerned groups. Exemptions to this process are granted only in the case of a genuine



emergency, where confidentiality of provisions is necessary or where the regulations concern only administrative detail and not substantive effect. This process, which has been in place for a decade, provides a degree of consultation that was not present in years past, even for changes in statutes.

Preparing legislation in the 1990s requires balancing policy initiatives with legal trends and traditions so that the product is an administratively viable system for the subject it is intended to address. The safety concerns of Alberta Labour are, for the most part, technologically focused. Some of the technologies concerned are mature and stable, while others, such as electrical/electronic and the application of statistical analysis to risk, are changing rapidly. It is necessary in these circumstances to make the blend of legislation and regulation sufficiently flexible to accommodate the pace of change. The years of planning that are now required to proclaim or substantially amend a statute also become a factor. In the case of a new statute, such as the Uniform General Safety Act, it is necessary to retain the flexibility that extensive use of regulations allows. Problems will emerge when people begin to work daily with the detailed provisions. If those provisions are in legislation it may take years rather than months to fix the problems.

## **2. The Statute**

For these reasons the next draft of the Uniform General Safety Act will be an administrative "shell". It will contain the allocations of responsibility, powers of delegation, and procedural linkages necessary for administration. It will not contain the detail of the September 1989 draft legislation. Part 3 (Boilers and Pressure Vessels Safety) and Part 4 (Fire Safety) will not be included in the Statute, although the Act will contain enabling sections for those provisions. The statute will contain the general provisions required to authorize certificates of competency, inspections, appeals and regulations for the various disciplines. Regulations will be used to incorporate the specific provisions necessary in each of the disciplines.

The consultation process has made it apparent that an "applications section" is

required at the beginning of the Act. It was also apparent that the first sections of the Act concerned something broader than simple "owner" responsibility for safety. The responsibility rests with the person or organization that has "care and control" at any given time. For example the engineer has a responsibility for a piece of equipment he is designing even while that piece of equipment is no more than a set of drawings. Likewise the vendor of a piece of code certified equipment has responsibility for its safe storage, demonstration or shipping even if the vendor is not, strictly speaking, the owner. The first few sections of the Act will be redrafted to reflect these principles.

Part 1 of the draft Statute (Administration, Supervision, Enforcement) will undergo many detailed changes in response to the comments received to date. The major changes will be discussed in following sections of this paper. The most significant of these changes is an expanded role for the Safety Council and a more consistent role for Safety Officers.

Part 2 (Standards, Certificates, Permits) will be modified to reflect the emerging consensus on common goals and procedures applicable to all disciplines within the scope of the Statute. The concept of "Certificates of Competency" appears to have a more general applicability than was apparent earlier in the drafting process.

Part 5 (General) will be simpler as a result of changes in preceding provisions.

A discussion paper will be released in Autumn 1990 that will contain an updated discussion draft of the Uniform General Safety Act.

### **3. Regulations**

There was one central choice to be made concerning the organization of regulations: should the provisions be grouped by the disciplines to which they apply (i.e. one for plumbing, one for electrical, and so on); or, should the provisions be grouped according to their administrative subject matter (i.e. group codes and standards together, group appointments and designations together, and so on)? It has been decided to group

provisions according to administrative requirements, the second choice. This has been done because it will significantly simplify administration in the long term, and in the short term, these regulations will be much easier to draft and to put into effect because lengthy repetition of administrative procedures will not need to be incorporated into a regulation for each discipline.

These regulations would be difficult for any single trade to work with. This is because they will contain information about all areas of General Safety Services responsibility, not just a single subject. This would be an unwarranted inconvenience to the partners in the safety system. This problem will be overcome through the release of "office consolidations". For example, all the sections of the Statute and the regulations of concern to a plumber can be extracted from the original documents and placed in a consolidated edition as is now done for some of the disciplines. This practice should provide regulations in a variety of formats so that municipal or provincial government staff have all the regulations at hand while individuals, contractors, and safety officers in the field have only those they need. For those whose scope of work encompasses several of the existing statutes, such as municipalities, large corporations and general contractors, the Act and regulations will be a more useful package than any Alberta Labour has been able to provide in the past. For those whose interest is limited to a particular area, there will be little change in the office consolidations that will be available.

It is proposed that there will be four basic regulations. Put at its simplest they will concern things, people, money and paper (information). Each of these is explained below.

#### **a. Codes and Standards Regulations**

This regulation will include all the national and international codes adopted for use in Alberta as well as any requirements specific to Alberta.

## **b. Competency Regulations**

This regulation will contain general provisions regarding certificates of competence. Additional sections will apply specifically to safety officers and to each discipline-related certificate, such as Power Engineering, Pressure Welding, Master Electrician and Gasfitter.

## **c. Fees Regulations**

Several different regulations currently contain provisions for fees. As a purely administrative matter, all these provisions will be grouped into one regulation. Again, specific fee provisions will be contained in office consolidations for particular subjects. Historically the level of fees and the things for which fees are charged has varied between the different branches of the General Safety Services Division. These diverse requirements will be brought onto a common footing in the new regulations. As part of the overall provincial government policy, fees will be adjusted to a full cost recovery basis in the next two years. Because municipalities will set their own fee structures, the provincial initiative on fees may have no impact in many areas.

## **d. Administrative Regulations**

This regulation will govern the delegation of authorities to accredited municipalities, accredited corporations and approved agencies. It will also contain provisions concerning "bookkeeping": issuing of permits and orders, filing accident and incident reports and information exchange to and from the risk management information system.



## CONCLUDING QUESTIONS

The purpose of this discussion paper has been to provide an overview of how the risk management system will work in years to come. Discussion Paper #1 provided an opportunity to review specific legislative provisions. This paper gives an opportunity to comment on how the risk management system will operate. As such, it would not have been useful to include a host of minute details about specific regulatory linkages, forms to be filled out or legal options for wording in the statute. Those details will be dealt with in a further discussion paper in the Autumn of 1990.

Building the safety system described here requires co-operation from all partners that may be involved. If there are problems with the overall design of the system, your response to this discussion paper will point them out.

Specific comments about the roles of partners are expected and welcome. Beyond this there are some general questions that might be considered:

1. Does a risk managed approach offer any benefits to your particular area of operation?
2. What type of information would you like to see included in the risk management information system and what type of information would you like to receive from it?
3. Would the expertise available from General Safety Services staff be of use to you and how would you wish to use it?
4. In your area of operation do you see a place for the concepts of quality management?
5. Which groups or organizations should make nominations for members of the Safety Council?
6. Who should make inputs to the Code Committees?
7. Do the options for accreditation and approval offer any benefits for your area of operation?
8. Are the authorities and responsibilities of safety officers appropriate to ensure unbiased decisions related to safety?

## APPENDIX - WRITTEN SUBMISSIONS - DISCUSSION PAPER #1

Alberta Urban Municipalities Association  
Dr. Ken Sauer, President

Municipal District of Cypress #1  
Mr. Lutz Perschon, Manager

Catylitic Maintenance Inc.  
Mr. J.H. O'Connor, P. Eng.  
Corporate Manager, Quality Assurance

Town of Spirit River  
Ms. Elsie Hoffarth, Municipal Administrator

City of Wetaskiwin  
Mr. F.T. Pringle, Plumbing & Gas Inspector

Calgary Exhibition & Stampede  
Mr. Barry Wood, Human Resources Manager

Dyol Associates Ltd.  
Mr. Lloyd W. Fletcher

Town of Taber  
Paul Primeau, Mayor

Institute of Power Engineers  
Mr. Ray Kjenner, Chairman  
Legislation Committee

Alberta Fire Chiefs Association  
Mr. W.D. MacKay, Secretary/Treasurer

Electrical Contractors Association  
Edmonton Chapter

Alberta Power  
Mr. A.S. Brekke, Manager  
System Operations

Mr. W.A. Lawrence, P. Eng.

Honourable Ken Kowalski  
Minister, Public Works, Supply and Service

Alberta Construction Association  
Mr. Ron Jones, P. Eng., President

City of Lethbridge  
Mr. Cliff Nelson, Director  
Inspection and Licenses

Mr. G.W. Lawson

City of Wetaskiwin  
Mr. John Van Doesburg, City Manager

Honourable Norm Weiss,  
Minister, Career Development and Employment

University of Lethbridge  
Mr. R.F. Comstock  
Vice President, Campus Development

Mr. John G. Ogilvy

County of Barrhead No. 11  
Mr. A.W. Charles, County Manager

Gulf Canada Resources Ltd.  
Mr. R.D. King

Municipal District of Spirit River  
Ms. Veronica Andruchiw, Municipal Administrator

Alberta Firefighters Association  
Mr. D. Richard, President

University of Alberta  
Mr. Donald G. Bellow  
Associate Vice President, Facilities

Northlands School Division #61  
Mr. Wilf Litwin

Public Works, Supply and Service  
Mr. R.M.B. Johnson  
Executive Director, Technical Resource Division

Economic Development & Trade

Mr. R.H. Blake, Assistant Deputy Minister  
Small Business & Industry Division

Electrical Inspectors Association of Alberta

Mr. Donald Letcher, Vice President

Northern Alberta Institute of Technology

Mr. Gilbert Requena, Program Head  
Power Engineering Technology

City of Edmonton Fire Department

Mr. F.K. Sherburne, Deputy Chief  
Technical Services

Municipal District of Brazeau #77

Mr. John Eriksson, Municipal Manager

Strathcona County Fire Department

Mr. Larry Spiess, Captain Inspector

Advanced Education

Ms. Lynne Duncan, Deputy Minister

Town of Didsbury

Mr. E.M. Storey, Administrator

City of Lethbridge

Mr. Fred Ford, Senior Electrical Inspector

City of Medicine Hat

Mr. J.W. Kerr, Commissioner of Utilities

Electrical Contractors Association of Alberta

Mr. W.A. Bussing, Legislative Committee Chairman

ICG

Shell Canada Ltd.

Mr. J.K. Hogan, Vice President  
Engineering and Construction

County of Red Deer

Mr. Warren McLeod, Development Officer

Town of Vulcan

Ms. Sandy Tetachuk, Municipal Manager



Southern Alberta Institute of Technology  
Mr. Owen Baker, Department Head  
Power Engineering

Mechanical Contractors Association of Alberta  
Mr. Derek McCorquindale, Executive Director

D-AI-N Electrical Contractors Ltd.  
Mr. Les Dzwonkiewicz

Kenry Electric Ltd.  
Mr. Ken Broughton, President

Construction Trades Council  
Mr. Robert Blakely

City of Red Deer  
Mr. R. Strader, Bylaws and Inspections Manager  
Building Inspection Department

City of Lethbridge  
Mr. Doug Snider  
Mechanical Inspection Superintendent

Alberta Association of Municipal Districts and Counties  
Mr. Larry Goodhope, Executive Director

Town of Fox Creek  
Mr. Bruce Moltzan, Town Manager

Occupational Health and Safety  
Mr. Hugh Walker, Managing Director

Jorgensen Farm Supplies Ltd.  
Mr. Neil Jorgensen

Canadian Bar Association  
Mr. E. Mirth, Q.C.  
Legislative Review Officer

City of Lethbridge  
Mr. R.G. Bochan, Deputy Fire Chief, Operations

County of Lac Ste. Anne #28  
Mr. Les Percy, Development/Utilities Officer

County of Barrhead No. 11

Mr. A.W. Charles, County Manager

Institute of Power Engineers

Mr. Frank Kapuscinski, Director, Alberta Area

Lethbridge Fire Department

Mr. Douglas Kometz

Pipe Trades Association

Mr. Robert Blakely

City of Edmonton

Mr. D.R. Cole, Manager

Building Inspection Branch

Federation of Alberta Gas Co-Ops Ltd.

Consulting Engineers of Alberta

Mr. K.W. Korchinski

Town of Hinton

Mr. Lorne Stadnick, P. Eng.

Director, Engineering & Development

Canadian Petroleum Association

Mr. Ian Smyth, President

Improvement Districts Association of Alberta

Ms. S.E. Mercier, Executive Director

Dow Chemical Canada Inc.

Mr. John Neale, Manager

Engineering & Construction Services

Construction Owners Association of Alberta

Mr. Walter Saponja, President

Edmonton Power

Mr. Garry Paul, Safety & Training Supervisor

Electrical Engineering Associates

Mr. J.R. Keating, Committee Chairman

RAM Manufacturing Ltd.

Mr. Richard Meunier

Electrical Contractors Association of Alberta  
Mr. Kevin M. Merriman, Legislative Committee Chairman  
Calgary Chapter

Husky Oil  
Mr. Gary Malenfant

Amerada Minerals Corporation of Canada Ltd.  
Mr. P.J. Teevens

City of Calgary  
Mr. Raj Sharma, Manager  
Building Regulations Division

Town of Coaldale  
Mr. E. McIlroy, Town Manager

Synchrude Canada Ltd.  
Mr. Brian Lade, Manager  
Quality Assurance

County of Parkland #31  
Mr. James V. Simpson, County Commissioner

Town of Grimshaw  
Ms. Helena Anderson, Mayor

Suncor Oil Sands Group  
Mr. Ed Pacholko, Vice President  
Technical Resources

Canadian Manufacturers' Association  
Mr. R.W. Saari

Alberta Pressure Vessels Manufacturers' Association  
Mr. B. Kossowan, P. Eng.

Village of Wabamun  
Mr. William F. Purdy, Mayor

Town of Rocky Mountain House  
Mr. D.L. Soppit, Mayor

University of Calgary  
Mr. David E. Price, Director of Physical Plant

International Brotherhood of Electrical Workers Local Union 254

Mr. John Bronius, President

Alberta Transportation & Utilities

Mr. T.K. Brown, Executive Director  
Gas Utilities Branch

University of Lethbridge

Mr. R.F. Comstock, Vice President  
Campus Development

Mr. Darryl Woodcock

Mr. D. Lindsay

Honourable Ray Speaker

Minister, Municipal Affairs

Building Owners and Manufacturers Association of Calgary

Mr. Don Lyster, President-Elect

Agricultural and Rural Affairs Caucus Committee

Alan Hyland, M.L.A., Chairman

Alberta Association of Architects

Mr. Paul H. Polson, President

Connie Osterman, M.L.A., Three Hills

Health Unit Association of Alberta

Ms. Jean Fraser, Chairman

Mr. Robin A. Weir

Mr. Henry J. Ruhl



## **APPENDIX - PUBLIC PRESENTATIONS -DISCUSSION PAPER #1**

Alberta Welder Requalification Advisory Committee  
Mr. Don A. Lezetc, Chairman

Alberta Urban Municipalities Association  
Mr. Randy Matlock

Institute of Power Engineers  
Mr. Frank Kapuscinski and Mr. Ray Kjenner

Mechanical Contractors Association of Alberta  
Mr. Derek McCorquindale, Executive Director

Red Deer Homebuilders Association  
Mr. W.G. Bontje, President

Alberta Power Ltd.  
Mr. Monty Williamson, Quality Control Inspector  
Battle River Generating Station

Construction Trades Council  
Mr. Robert Blakely

City of Lethbridge  
Mr. Doug Snider  
Mechanical Inspection Superintendent

Pipe Trades Association  
Mr. Robert Blakely

Town of Peace River  
Mr. Lorne Mann, Deputy Mayor

Alberta Refinery of Petrochemical Inspection Association  
Mr. Gary Malenfant, P. Eng.

Northern Alberta Institute of Technology  
Mr. Gilbert Requena/Mr. Lloyd Hagen  
Power Engineering Department

Commissioner of Utilities, Medicine Hat  
Mr. J.W. Kerr





N.L.C. - B.N.C.



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